

Sec. 18.23.010. Limitation on liability for persons providing information to review organization.

(a) A person providing information to a review organization is not subject to action for damages or other relief by reason of having furnished that information, unless the information is false and the person providing the information knew or had reason to know the information was false.

(b) A privilege of confidentiality arising from a physician-patient relationship may not be invoked to withhold pertinent information from review by a review organization.

Sec. 18.23.020. Limitation on liability for members of review organizations.

A person who is a member or employee of, or who acts in an advisory capacity to, or who furnishes counsel or services to a review organization is not liable for damages or other relief in an action brought by another whose activities have been or are being scrutinized or reviewed by a review organization, by reason of the performance of a duty, function, or activity of the review organization, unless the performance of the duty, function, or activity was motivated by malice toward the affected person. A person is not liable for damages or other relief in an action by reason of performance of a duty, function, or activity as a member of a review organization or by reason of a recommendation or action of the review organization when the person acts in the reasonable belief that the action or recommendation is warranted by facts known to the person or to the review organization after reasonable efforts to ascertain the facts upon which the review organization's action or recommendation is made.

Sec. 18.23.030. Confidentiality of records of review organization.

(a) Except as provided in (b) of this section, all data and information acquired by a review organization, in the exercise of its duties and functions, shall be held in confidence and may not be disclosed to anyone except to the extent necessary to carry out the purposes of the review organization, and is not subject to subpoena or discovery. Except as provided in (b) of this section, a person described in [AS 18.23.020](#) may not disclose what transpired at a meeting of a review organization except to the extent necessary to carry out the purposes of a review organization, and the proceedings and records of a review organization are not subject to discovery or introduction into evidence in a civil action against a health care provider arising out of the matter that is the subject of consideration by the review organization. Information, documents, or records otherwise available from original sources are not immune from discovery or use in a civil action merely because they were presented during proceedings of a review organization, nor may a person who testified before a review organization or who is a member of it be prevented from testifying as to matters within the person's knowledge, but a witness may not be asked about the witness's testimony before a review organization or opinions formed by the witness as a result of its hearings, except as provided in (b) of this section.

(b) Testimony, documents, proceedings, records, and other evidence adduced before a review organization that are otherwise inaccessible under this section may be obtained by a health care provider who claims that denial is unreasonable, or may be obtained under subpoena or discovery proceedings brought by a plaintiff who claims that information provided to a review organization was false and claims that the person providing the information knew or had reason to know the information was false.

(c) Nothing in [AS 18.23.005](#) - 18.23.070 prevents a person whose conduct or competence has been reviewed under [AS 18.23.005](#) - 18.23.070 from obtaining, for the purpose of appellate

review of the action of the review organization, any testimony, documents, proceedings, records, and other evidence adduced before the review organization.

(d) Notwithstanding the provisions of (b) and (c) of this section, information contained in a report submitted to the State Medical Board, and information gathered by the board during an investigation, under AS 08.64.336 is not subject to subpoena or discovery unless and until the board takes action to suspend, revoke, limit, or condition a license of the person who is the subject of the report or investigation.

Sec. 18.23.040. Penalty for violation.

Other than as authorized by [AS 18.23.030](#) , a disclosure of data and information acquired by a review committee or of what transpired at a review meeting is a misdemeanor and punishable by imprisonment for not more than one year or by a fine of not more than \$500.

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Sec. 18.23.050. Protection of patient.

Nothing in [AS 18.23.005](#) - 18.23.070 relieves a person of liability that the person has incurred or may incur to a person as a result of furnishing health care to the patient.

Sec. 18.23.060. Parties bound by review.

When a review organization reviews matters under AS 18.23.070(5)(A)(viii) a party is not bound by a ruling of the organization in a controversy, dispute, or question unless the party agrees in advance, either specifically or generally, to be bound by the ruling.

Sec. 18.23.065. [Renumbered as [AS 18.23.005](#)].

Repealed or Renumbered

Sec. 18.23.070. Definitions for [AS 18.23.005](#) - 18.23.070.

In [AS 18.23.005](#) - 18.23.070, unless the context otherwise requires,

- (1) "administrative staff" means the staff of a hospital or clinic;
- (2) "health care" means professional services rendered by a health care provider or an employee of a health care provider, and services furnished by a sanatorium, rest home, nursing home, boarding home, or other institution for the hospitalization or care of human beings;
- (3) "health care provider" means an acupuncturist licensed under AS 08.06; a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist or occupational therapist licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; a hospital as defined in [AS 18.20.130](#) , including a governmentally owned or operated hospital; and an employee of a health care provider acting within the course and scope of employment;

(4) "professional service" means service rendered by a health care provider of the type the provider is licensed to render;

(5) "review organization" means

(A) a hospital governing body or a committee whose membership is limited to health care providers and administrative staff, except where otherwise provided for by state or federal law, and that is established by a hospital, by a clinic, by one or more state or local associations of health care providers, by an organization of health care providers from a particular area or medical institution, or by a professional standards review organization established under 42 U.S.C. 1320c-1, to gather and review information relating to the care and treatment of patients for the purposes of

(i) evaluating and improving the quality of health care rendered in the area or medical institution;

(ii) reducing morbidity or mortality;

(iii) obtaining and disseminating statistics and information relative to the treatment and prevention of diseases, illness, and injuries;

(iv) developing and publishing guidelines showing the norms of health care in the area or medical institution;

(v) developing and publishing guidelines designed to keep the cost of health care within reasonable bounds;

(vi) reviewing the quality or cost of health care services provided to enrollees of health maintenance organizations;

(vii) acting as a professional standards review organization under 42 U.S.C. 1320c;

(viii) reviewing, ruling on, or advising on controversies, disputes, or questions between a health insurance carrier or health maintenance organization and one or more of its insured or enrollees; between a professional licensing board, acting under its powers of discipline or license revocation or suspension, and a health care provider licensed by it when the matter is referred to a review organization by the professional licensing board; between a health care provider and the provider's patients concerning diagnosis, treatment, or care, or a charge or fee; between a health care provider and a health insurance carrier or health maintenance organization concerning a charge or fee for health care services provided to an insured or enrollee; or between a health care provider or the provider's patients and the federal or a state or local government, or an agency of the federal or a state or local government;

(ix) acting on the recommendation of a credential review committee or a grievance committee;

(B) the State Medical Board established by [AS 08.64.010](#) ;

(C) a committee established by the commissioner of health and social services and approved by the State Medical Board to review public health issues regarding morbidity or mortality; at least 75 percent of the committee members must be health care providers.